

CITY OF MIAMI, FLORIDA
INTER-OFFICE MEMORANDUM


Handwritten:
Llanes #42789
3rd Shift 42789
MAY 27 2020

TO : Major Jose L. Fernandez
Commander
Internal Affairs Section

DATE : February 18, 2020

FILE :

SUBJECT : Officer Ioannys Llanes #42789

FROM : 
Sergeant Lorena Rodriguez #5895
Internal Investigations Unit
Internal Affairs Section

REFERENCES : I.A. Case No. 19-044

ENCLOSURES :

ALLEGATION:

Mr. Oscar Julien-Riou alleged that on December 10, 2018, Officer Ioannys Llanes #42789 approached him and unlawfully ordered him to leave the park. Mr. Julien-Riou alleged Officer Llanes threw him to the ground, searched him without his consent and falsely arrested him.

The allegations are **Excessive Force**, **False Arrest** and **Improper Procedure**.

PERSONS INTERVIEWED:

1. Mr. Oscar Julien-Riou	1441 N.W. 67 Street, Miami, FL 33147	(305) 926-2840
2. Officer Angel Hernandez	1000 N.W. 62 Street, Miami, FL 33150	(305) 603-6920
3. Officer Pierre Jean-Gilles	1000 N.W. 62 Street, Miami, FL 33150	(305) 603-6920
4. Sergeant Michael Valladares	1000 N.W. 62 Street, Miami, FL 33150	(305) 603-6920
5. Ofc. Jennifer Bhikarry-Genelus	400 N.W. 2 Avenue, Miami, FL 33128	(305) 603-6640
6. Officer Jeremy Klurman	1000 N.W. 62 Street, Miami, FL 33150	(305) 603-6920
7. Sergeant Walter Lewis	1000 N.W. 62 Street, Miami, FL 33150	(305) 603-6920
8. Officer Ioannys Llanes	1000 N.W. 62 Street, Miami, FL 33150	(305) 603-6920

SUMMARY OF THE INVESTIGATION:

On March 28, 2019, the Internal Affairs Section received a complaint Form via GovQA (#W003573-032819). The complaint was filed by Mr. Oscar Julien-Riou against Officer Ioannys Llanes. The following is a summary of his complaint:

Mr. Oscar Julien-Riou stated that on December 10, 2018, he was at Alonzo Kelly Park, located at 1455 N.W. 67 Street. He stated Officer Llanes falsely arrested, battered and imprisoned him. Additionally, he stated Officer Llanes falsified a police report. Mr. Julien-Riou stated he was approached by Officer Llanes and unlawfully ordered to leave the park. Mr. Julien-Riou stated he was then thrown to the ground and searched without his consent. He stated he was injured during the encounter/arrest and it has caused him to be in extreme distress. Mr. Julien-Riou stated the officers found nothing, but Officer Llanes charged him with Resisting Arrest (Miami Police report #181210-0093084). Mr. Julien-Riou stated Officer Llanes falsely marked "gang-related arrest" and "fraud-related arrest" on the arrest affidavit; however, a review of the arrest affidavit revealed it was not checked off and instead, there is an, "N," to indicate it was neither a gang related arrest nor a fraud related arrest.

On July 8, 2019, an e-mail was received from Assistant State Attorney Johnette Hardiman of the Miami-Dade State Attorney's Office, which included a Close Out Memo of the preliminary inquiry into this case. The Close Out memorandum read the Miami-Dade State Attorney's Office determined the criminal investigation against Officer Llanes is closed and the City of Miami Police Department will proceed administratively with this case.

On July 12, 2019, I obtained a sworn audio recorded statement from Mr. Oscar Julien-Riou. The following is a summary of his statement:

Mr. Julien-Riou stated he was recording himself while sitting inside the park when he saw a police vehicle arrive and shined the headlights towards his direction. He stated there was no one else in the park when the officer arrived. Mr. Julien-Riou stated Officer Llanes sat inside his car for a few minutes prior to walking into the park and greeting him. He stated Officer Llanes asked him if he knew the park was closed, and he replied he did not know and that he was just about to leave and stood up. Mr. Julien-Riou stated Officer Llanes then grabbed his left wrist, which he was holding his camera in, and asked, "What's in your hand?" He stated he tried to explain that he had nothing in his hands, when Officer Llanes told him to have a seat. Mr. Julien-Riou stated he tried to have a seat, but Officer Llanes pulled him down by his wrist, used his right foot/leg to hit the back of his heel (causing him to fall to the ground) and handcuffed him. He stated he informed Officer Llanes that his back was hurting but Officer Llanes kept shouting, "What you threw down? Didn't I tell you to sit down?" Mr. Julien-Riou stated additional officers arrived on the scene and an unknown officer asked, "Can we search you?" and he replied, "No, you need permission to search me;" however, he stated multiple officers began to search him. Mr. Julien-Riou stated that he spoke with a sergeant on the scene, and shortly after, he was escorted unhandcuffed from the park and placed inside a police vehicle. He stated the officer whose vehicle he was sitting inside of advised him he felt uncomfortable sitting in his vehicle while he remained unhandcuffed, then proceeded to handcuff his arms in the front. Mr. Julien-Riou stated the sergeant came by the police vehicle and questioned who handcuffed him and ordered the officer to remove the handcuffs. Mr. Julien-Riou stated due to this incident, he sustained emotional trauma and injuries to his elbow and finger.

On August 21, 2019, I obtained a sworn audio recorded witness statement from Officer Angel Hernandez #42768. The following is a summary of his statement:

Officer Angel Hernandez stated that on December 10, 2018, he responded as a back-up officer and upon his arrival, he observed Mr. Julien-Riou on the ground in a prone position and immediately assisted by handcuffing him. He stated Mr. Julien-Riou complained of back injury and Officer Bhikarry-Genelus requested fire rescue. Officer Hernandez stated he only searched Mr. Julien-Riou's jacket pocket in an attempt to locate his identification card. He stated his handcuffs were removed in order to facilitate Mr. Julien-Riou off the ground and prior to fire rescue's arrival on the scene.

On September 5, 2019, I obtained a sworn audio recorded Garrity statement from Officer Pierre Jean-Gilles #43106 after affording him the opportunity to review the entire case file. Present in the room was Officer Felix Del Rosario #28582 acting as his employee representative. The following is a summary of his statement:

Officer Pierre Jean-Gilles stated that on December 10, 2018, he responded as a back-up officer and upon his arrival, he observed Mr. Julien-Riou on the ground handcuffed. He stated he requested fire rescue for Mr. Julien-Riou's complaints of back pain. Officer Jean-Gilles stated he conducted a pat down for weapons of Mr. Julien-Riou for officer safety because he was unaware if he had been searched prior. He stated he conducted his pat down by only checking over Mr. Julien-Riou's clothing for any bulges that may indicate he may be armed, which lead to no weapons found. Officer Jean-Gilles stated shortly after conducting the pat down, he assisted Officer Llanes in conducting a custodial search of Mr. Julien-Riou because Officer Hernandez stated he was going to jail.

On September 10, 2019, I obtained a sworn audio recorded Garrity statement from Sergeant Michael Valladares #29321 after affording him the opportunity to review the entire case file. Present in the room was Sergeant Mathew Reyes #28568 acting as his employee representative. The following is a summary of his statement:

Sergeant Michael Valladares stated that on December 10, 2018, he responded to the incident because it was dispatched as an emergency call. He stated upon his arrival, Mr. Julien-Riou was handcuffed on the ground in a recovery position. Sergeant Valladares stated he asked Officer Llanes if he was "Okay," and Officer Llanes informed him of what had occurred. He stated he ensured that fire rescue was enroute for Mr. Julien-Riou's complaint of injury. Sergeant Valladares stated he called Officer Llanes' immediate supervisor (Sergeant Walter Lewis #28559) and relayed the information provided to him on the scene. He stated he was present as fire rescue arrived, treated Mr. Julien-Riou and informed him that Mr. Julien-Riou will not be transported. Sergeant Valladares stated he conducted a search of the immediate area for possible narcotics based on Officer Llanes' statement, as it was believed the unknown item discarded by Mr. Julien-Riou may have been narcotics. He stated he remained on the scene and offered his assistance to Sergeant Lewis.

On September 11, 2019, I obtained a sworn audio recorded Garrity statement from Officer Jennifer Bhikarry-Genelus #42985 after affording her the opportunity to review the entire case file. Officer Bhikarry-Genelus waived her right to have an employee representative present during her statement. The following is a summary of his statement:

Officer Jennifer Bhikarry-Genelus stated that on December 10, 2018, she responded to the incident as a back-up officer; and upon her arrival, she observed Mr. Julien-Riou on the ground complaining of injury. She stated while on the scene she attempted to assist Mr. Julien-Riou but does not recall how she assisted him. Officer Bhikarry-Genelus stated she conducted a search of the immediate area for possible narcotics based on Officer Llanes' statement; it was believed the unknown item discarded by Mr. Julien-Riou may have been a "baggie of narcotics." Officer Bhikarry-Genelus stated Officer Jean-Gilles conducted both a pat down for weapons and a custodial search of Mr. Julien-Riou in the same manner by entering his pockets during both occasions. She stated she had a body worn camera assigned to her on the date of incident and wore it mounted on her chest while on the scene. Officer Bhikarry-Genelus stated she did not know prior to reviewing the entire case file that she failed to activate her body worn camera. She stated she did not document her response to this incident on her Uniform Police Worksheet because it was a "go-by" and she was still

showing on a previous call, also a signal "GB," go-by. Officer Bhikarry-Genelus acknowledged she forgot to document this incident on her worksheet.

On September 11, 2019, I obtained a sworn audio recorded Garrity statement from Officer Jeremy Klurman #42763 after affording him the opportunity to review the entire case file. Present in the room was Sergeant Mathew Reyes #28568 acting as his employee representative. The following is a summary of his statement:

Officer Jeremy Klurman stated that on December 10, 2018, he responded as a back-up officer and upon his arrival, he observed Mr. Julien-Riou on the ground handcuffed; however, he believed Mr. Julien-Riou was only detained at that time. He stated Officer Llanes informed him what occurred, and he began to search the area within the park for possible narcotics. Officer Klurman stated he was not provided with a description of the item discarded but it was believed to be narcotics based on past experience and known narcotics activity in the area. He stated he assisted by conducting a background check on Mr. Julien-Riou to verify his identity and criminal history, which resulted in no history found. Officer Klurman stated he removed Mr. Julien-Riou's handcuffs to allow fire rescue to treat him on the scene. He stated he was asked by Sergeant Walter Lewis to take Mr. Julien-Riou to his police vehicle as a Police Canine Unit was going to conduct a search of the area. Officer Klurman stated he did not handcuff Mr. Julien-Riou prior to placing him in his vehicle because he was unaware if he was under arrest at that time. Based on BWC footage, he stated that at approximately one (1) hour and thirty (30) minutes after being on the scene, he inquired as to the status of Mr. Julien-Riou's investigation from Officer Llanes, who informed him that he was under arrest. Officer Klurman stated after he was made aware that Mr. Julien-Riou was under arrest, he then decided to handcuff him for officer safety; however, he chose to handcuff him with his hands in the front due to his complaint of injury. He stated he was not aware of Sergeant Lewis having any concerns with his decision to handcuff Mr. Julien-Riou. Officer Klurman acknowledged that while sitting inside his police vehicle he began to smoke an electronic cigarette device (which contains nicotine) while Mr. Julien-Riou sat in the backseat of his vehicle. Officer Klurman stated after Officer Llanes took custody of Mr. Julien-Riou, he had no further involvement.

On September 17, 2019, I obtained a sworn audio recorded Garrity statement from Sergeant Walter Lewis #28559 after affording him the opportunity to review the entire case file. Present in the room was Sergeant Mathew Reyes #28568 acting as his employee representative. The following is a summary of his statement:

Sergeant Walter Lewis stated that on December 10, 2018, he was briefed on the incident by Sergeant Valladares via telephone and he subsequently responded to the scene. He stated upon his arrival, he observed Mr. Julien-Riou being treated by fire rescue personnel while unhandcuffed. Sergeant Lewis stated he was then briefed by Officer Llanes on what had occurred, who stated he was conducting a park & walk after closing hours. He stated Officer Llanes informed him that he approached Mr. Julien-Riou, who was sitting inside the park and advised him that the park was closed. Mr. Julien-Riou appeared to be clutching an item in his hand. Sergeant Lewis stated Officer Llanes stated he asked Mr. Julien-Riou to reveal what was in his hand, at which point, Mr. Julien-Riou made a switch of an unknown item within his hands and tossed it over his shoulder in what he believed to be an attempt to discard possible narcotics. He stated Officer Llanes then stated he

grabbed Mr. Julien-Riou who continued to move and redirected him to the ground. Sergeant Lewis stated that based on Officer Llanes' statement, he believed there was probable cause to arrest Mr. Julien-Riou and the use of force was within departmental orders. He stated a search of the immediate area was conducted for possible narcotics prior to requesting assistance from a Police Canine Unit. Sergeant Lewis stated he spoke with Mr. Julien-Riou to obtain his accounts of the incident, in order to complete a Response to Resistance Report for the incident. He stated Mr. Julien-Riou informed him that Officer Llanes approached him, stated that the park was closed and inquired what he had in his hands. Sergeant Lewis stated Mr. Julien-Riou stated he believed Officer Llanes was going to grab his camera; and although he did not resist, he stated he may have moved away from Officer Llanes.

Sergeant Lewis stated he gave a directive to have Mr. Julien-Riou secured in a vehicle, in order to have a Canine Unit search the area. Sergeant Lewis stated the Canine Unit search revealed no evidence found and at that point, he ensured Officer Llanes began generating the arrest affidavit. He stated he was not aware that Mr. Julien Riou was kept unhandcuffed in the backseat of the police vehicle nor did he address any concerns regarding the same with any officer. Sergeant Lewis stated Officer Llanes used his discretion when charging Mr. Julien-Riou with Resisting without Violence and chose to articulate being in the park after hours without adding the Miami-Dade ordinance violation to the arrest affidavit.

On October 2, 2019, I obtained a sworn audio recorded Garrity statement from Officer Ioannys Llanes after affording him the opportunity to review the entire case file. Present in the room was Sergeant Mathew Reyes #58568 acting as his employee representative. The following is a summary of his statement:

Officer Ioannys Llanes stated that on December 10, 2018, he was patrolling the Model City N.E.T. area when he observed two (2) unknown males inside Alonzo Kelly Park (1455 N.W. 67 Street) after closing hours. Additionally, he stated Alonzo Kelly Park was closed after sunset and it is known for high narcotics and criminal activity. Officer Llanes stated he informed the two (2) males that the park was closed and after he conducted a background check, both males left the park without incident. He stated he then observed Mr. Oscar Julien-Riou sitting inside the park, in the dark and he walked over to address him. Officer Llanes stated he informed him the park was closed and noticed Mr. Julien-Riou's left hand was clenched, at which point, he asked what was in his hand. He stated Mr. Julien-Riou responded he didn't have anything in his hand but wouldn't show him, rather, he switched his camera from one hand to the other in attempt to conceal the unknown item with the camera. Officer Llanes stated Mr. Julien-Riou then stood up, turned away from him and made a motion as if throwing something over his shoulder. He stated he then grabbed his left arm and asked him to take a seat, but he would not comply. Officer Llanes stated he then took Mr. Julien-Riou down to the ground in order to gain control of the situation and requested for assistance via the police radio. He stated that at that point, Mr. Julien-Riou was under arrest for resisting and subsequently was handcuffed. Officer Llanes stated he conducted a search of Mr. Julien-Riou because he was under arrest. He stated he used his discretion to not add the Miami-Dade County Ordinance, which prohibits being in any park after closing hours and only charged him with Resisting without Violence. Officer Llanes stated he made the determination to complete a promise to appear and not transport Mr. Julien-Riou because it was a misdemeanor. He acknowledged his

inconsistencies between his arrest affidavit and his BWC footage when completing his affidavit and stated it was due to failing to review his BWC footage prior to completing his reports.

Synopsis of Officer Llanes' BWC footage captured Officer Llanes arriving at Alonzo Kelly Park where he contacts two (2) unknown males. Officer Llanes' interaction with the two (2) males consisted of notifying them that the park was closed and conducting a background check prior to allowing both males to leave without incident. During Officer Llanes' interaction with Mr. Julien-Riou, there are moments that Mr. Julien-Riou's hands aren't visible due to the proximity between them. Officer Llanes is heard stating to Mr. Julien-Riou, "You know the park is close at this time." and Mr. Julien-Riou is heard acknowledging and explained what he was doing there. Officer Llanes asked Mr. Julien-Riou if he had anything in his hand to which he replied, "No, no. I'm ok. This my camera." Mr. Julien-Riou is observed standing up from the bench and appear to turn away from Officer Llanes. The proximity between them becomes even closer and obscured. Officer Llanes is observed reaching towards Mr. Julien-Riou and asked, "let me see what," as Mr. Julien-Riou continued to turn away. Officer Llanes is observed then grabbing Mr. Julien-Riou's left arm and instructed him to "have a seat, have a seat." The footage is obscured as Officer Llanes appears to take Mr. Julien-Riou down to the ground.

Note: A review of Officer Llanes' hand-written arrest affidavit authored by Officer Llanes read, "The defendant was asked to placed his hand behind his back at which moment he began to pull away from me, impeding my ability to place his hands behind his back. The defendant was advised several times to stop resisting and to place his hands behind his back." A review of the BWC footage showed Officer Llanes did not make such verbal commands; however, he did instruct Mr. Julien-Riou to "have a seat" several times, leading up to the use of force.

On October 9, 2019, Officer Pierre Jean-Gilles elected to review all other principal statements including the entire case file and provided a sworn audio recorded rebuttal statement. Present in the room was Sergeant Mathew Reyes acting as his employee representative. The following is a summary of his statement:

Officer Pierre Jean-Gilles reiterated that on December 10, 2018, he initially conducted a pat-down for weapons of Mr. Julien-Riou for officer safety by only checking over his clothing and not inside his pockets. He stated shortly after, he conducted a full search of Mr. Julien-Riou with the assistance of Officer Llanes.

On October 9, 2019, Sergeant Michael Valladares, Officers Jennifer Bhikarry-Genelus and Jeremy Klurman were afforded an opportunity to listen to all other principal statements and provide a rebuttal. All three (3) principal officers respectfully declined.

On October 21, 2019, Sergeant Walter Lewis elected to review all other principal statements including the entire case file; however, respectfully declined to provide a rebuttal statement.

On October 29, 2019, Officer Ioannys Llanes elected to review all other principal statements including the entire case file; however, respectfully declined to provide a rebuttal statement.

Upon conclusion of the investigation, the following facts were revealed:

On December 10, 2018, Officer Ioannys Llanes was conducting a check of Alonzo Kelly Park (1455 N.W. 67 Street) after closing hours, where he encountered Mr. Julien-Riou sitting on a park bench. The encounter led up to a Use of Force which was documented (#F18-231) and Mr. Julien-Riou was arrested and charged with one (1) count of Resisting an Officer without Violence (Miami Police report #181210-0093084). Mr. Julien-Riou sustained minor injuries to his elbow and finger and was treated on scene and subsequently was released after being issued a Notice to Appear.

FINDINGS:

As to the allegation of Excessive Force against Officer Ioannys Llanes: Exonerated.

BASIS:

1. Mr. Oscar Julien-Riou stated in his sworn audio recorded statement Officer Llanes threw him to the ground causing him to suffer back pain and a laceration to his left elbow and injury to his finger. Mr. Julien-Riou did not articulate any physical force used by Officer Llanes that was more than needed to stop him and gain control of the incident.
2. Sergeant Lewis stated he spoke with Mr. Julien-Riou to obtain his accounts of the incident, in order to complete a Response to Resistance Report for the incident. He stated Mr. Julien-Riou stated he believed Officer Llanes was going to grab his camera and that although he did not resist, he stated he may have moved away from Officer Llanes. Sergeant Lewis stated based on his preliminary investigation he deemed Officer Llanes' use of force to be reasonable and within departmental guidelines and state statute.
3. Miami State Attorney's Office, A.S.A. Johnette Hardiman provided a close out memorandum addressing the allegation of criminal Battery by Officer Llanes which stated, "The facts would not be sufficient to meet the burden."
4. Officer Ioannys Llanes stated in his sworn audio recorded Garrity statement he asked Mr. Julien-Riou to reveal what he had in his left hand which was clenched. He stated Mr. Julien-Riou stood up and made a motion as if throwing something over his shoulder and turned away from him. Officer Llanes stated he then grabbed Mr. Julien-Riou's left arm and asked him to sit down to which he did not comply. He stated he then took Mr. Julien-Riou to the ground by grabbing his left arm in order to gain control of the situation.
5. Mr. Julien-Riou's description of Officer Llanes' actions of pulling on his left wrist causing him to fall to the ground, in conjunction with Officer Llanes' belief of Mr. Julien-Riou throwing an unknown item away then attempting to turn away, and BWC footage, disproves the allegation of Excessive Force. The act did not constitute any violation of policy, Departmental Orders or State Statute.
6. Based on the preponderance of the evidence, the physical force used by Officer Llanes was reasonable, and consistent with Mr. Julien-Riou's level of resistance and minimal in detaining Mr. Julien-Riou.

FINDINGS:

As to the allegation of **False Arrest** against Officer Ioannys Llanes: **Exonerated.**

BASIS:

1. Mr. Oscar Julien-Riou alleged Officer Llanes approached him, unlawfully ordered him to leave the park and falsely arrested him.
2. The Miami-Dade State Attorney's Office reviewed the video (BWC footage) and arrest affidavit associated with Mr. Julien-Riou's arrest and concluded in a close-out memorandum that Officer Llanes "was legally in the park performing routine duties. He believed he saw the complainant throw or drop something and acted accordingly." The memorandum cited Chapter 26 of the Miami Dade Code which provides for the closing times of the parks (26-1, rule 13).
3. Officer Ioannys Llanes stated in his sworn audio recorded Garrity statement he observed Mr. Julien-Riou sitting inside the park after hours and approached him to investigate. He stated Mr. Julien-Riou stood up, made a motion as if throwing something over his shoulder and turned away from him. Officer Llanes stated he grabbed Mr. Julien-Riou's left arm and gave him verbal commands to sit down but he would not comply. He stated he took Mr. Julien-Riou down to the ground and at that point, he was arresting Mr. Julien-Riou for resisting an officer.
4. A review of Officer Llanes' BWC footage and Mr. Julien-Riou's camera footage corroborates the initial encounter and reasons for Officer Llanes' investigation.

FINDINGS:

As to the allegation of **Improper Procedure** against Officer Ioannys Llanes: **Exonerated.**

BASIS:

1. Mr. Julien-Riou alleged Officer Llanes searched him without his consent.
2. Officer Pierre Jean-Gilles stated in his sworn audio recorded Garrity statement he observed Mr. Julien-Riou on the ground handcuffed. He stated shortly after, he assisted Officer Llanes in conducting a custodial search of Mr. Julien-Riou.
3. Officer Ioannys Llanes stated in his sworn audio recorded Garrity statement he conducted a custodial search of Mr. Julien-Riou as he was under arrest for resistance an officer.
4. Officer Llanes's BWC footage revealed Mr. Julien-Riou was handcuffed and captured Officer Llanes informing Mr. Julien-Riou that he was under arrest for resisting an officer, prior to conducting a search.

During the course of the investigation, an additional allegation of **Improper Procedure** by Officer Ioannys Llanes was discovered by the Internal Affairs Section and **Sustained**.

BASIS:

1. A review of Officer Llanes' hand-written arrest affidavit, authored by Officer Llanes read, "The defendant was asked to place his hand behind his back at which moment he began to pull away from me, impeding my ability to place his hands behind his back. The defendant was advised several times to stop resisting and to place his hands behind his back." A review of the BWC footage showed Officer Llanes did not make such verbal commands; however, he did instruct Mr. Julien-Riou to "have a seat" several times, leading up to the use of force.
2. Officer Llanes acknowledged in his sworn audio recorded Garrity statement he failed to review his BWC footage prior to completing his arrest affidavit; therefore, he thought he made such verbal commands.

Therefore, Officer Ioannys Llanes is found to be in violation of the following **City of Miami Police Departmental Orders**:

Departmental Order 1, Chapter 11:

11.6 GENERAL RULES OF CONDUCT:

11.6.1.2 Members and Civilian Employees to Know Rules and Regulations: It shall be the duty of all members and civilian employees of the Police Department to thoroughly familiarize themselves with such provisions of the Rules and Regulations that deal specifically and generally with the duties of their rank, grade, or position. This should occur within **ten days** from the date of issuance. Within thirty days of issuance, every member and every civilian employee shall familiarize himself or herself with all the provisions of the Rules and Regulations. Failure on the part of any member or civilian employee to acquaint himself/herself with the provisions of the Rules and Regulations, as hereby directed, shall be considered negligence of duty and subject to disciplinary action.

11.6.17 Disciplinary Action - General Offenses: A member or civilian employee of the Department found guilty of violating a rule, regulation, provision of a general or special order, or any of the offenses below, or upon conviction in a court having criminal jurisdiction, shall be subject to reprimand, suspension, dismissal, or suffer other disciplinary action as the Chief of Police may impose.

Departmental Order 11, Chapter 16: Arrest Procedures

16.3 RESPONSIBILITIES: Every sworn member, when effecting an arrest, will be responsible for the following:

16.3.4 Fully and accurately completing the complaint/arrest affidavit and any other applicable reports.

During the course of the investigation, an additional allegation of **Improper Procedure** by Officer Jennifer Bhikarry-Genelus was discovered by the Internal Affairs Section and **Sustained**.

BASIS:

1. On December 10, 2018, Officer Bhikarry-Genelus had a Body Worn Camera (B.W.C.) assigned to her. Officers Jeremy Klurman and Pierre Jean-Gilles' B.W.C. footages revealed Officer Bhikarry-Genelus responded to 1455 N.W. 67 Street and interacted with Mr. Julien-Riou, while on the scene with her B.W.C. turned off. Officer Bhikarry-Genelus did not record the entire incident.
2. A review of Officer Bhikarry-Genelus' daily Uniform Police Worksheet dated December 10, 2018, revealed her response to this incident was not documented.
3. Officer Jennifer Bhikarry-Genelus stated in her sworn audio recorded Garrity statement she did not know (prior to reviewing the entire case file) that she failed to activate her body worn camera. She stated she did not document her response to this incident on her Uniform Police Worksheet because it was a "go-by" and she was still showing on a previous call, signal "GB" another go-by. Officer Bhikarry-Genelus acknowledged she forgot to document this incident.

Therefore, Officer Jennifer Bhikarry-Genelus is found to be in violation of the following **City of Miami Police Departmental Orders**:

Departmental Order 1, Chapter 11:

11.6 GENERAL RULES OF CONDUCT:

11.6.1.2 Members and Civilian Employees to Know Rules and Regulations: It shall be the duty of all members and civilian employees of the Police Department to thoroughly familiarize themselves with such provisions of the Rules and Regulations that deal specifically and generally with the duties of their rank, grade, or position. This should occur within **ten days** from the date of issuance. Within thirty days of issuance, every member and every civilian employee shall familiarize himself or herself with all the provisions of the Rules and Regulations. Failure on the part of any member or civilian employee to acquaint himself/herself with the provisions of the Rules and Regulations, as hereby directed, shall be considered negligence of duty and subject to disciplinary action.

11.6.17 Disciplinary Action - General Offenses: A member or civilian employee of the Department found guilty of violating a rule, regulation, provision of a general or special order, or any of the offenses below, or upon conviction in a court having criminal jurisdiction, shall be subject to reprimand, suspension, dismissal, or suffer other disciplinary action as the Chief of Police may impose.

11.6.18.19 Work Sheets Each member, unless otherwise ordered by his commanding officer, shall complete a daily worksheet, accurately and completely listing his activities during his tour of duty. Daily worksheets must be completed on the Electronic Worksheet Program (EWP) which can be located on the Miami Police Department's Intranet website. Worksheets will be submitted using the EWP at the end of the tour of duty, unless otherwise directed by a superior officer. All supervisors/superior officers will approve and finalize the daily worksheet electronically on the EWP, on a daily basis. In the event that a worksheet cannot be completed on the EWP, on a daily basis a paper worksheet will be generated and submitted by the end of the tour of duty.

Departmental Order 4, Chapter 6 Body Worn Camera: (Rev. 10/11/18)

6.4.2.2 Use of and Recording with the BWC: (CALEA 41.3.8 b)

c) The Department recognizes that officer safety is paramount. Officers are directed to activate their BWC immediately upon being dispatched to a call for service or engaging in a self-initiated call for service. In the event that an Officer cannot safely begin recording at the time of dispatch or upon initiating a self-directed call for service the Officer must start recording as soon as it is safe and practical to do so. If multiple officers are on scene with a BWC, all officers with a BWC will record. Likewise, if multiple Detention Officers are transporting detainees, all Detention Officers will activate the record mode during this task.

d) Officers with a BWC shall activate their BWC for all investigative or enforcement contacts including, but not limited to:

7. All arrests and/or citations.

g) Once a BWC is recording, officers must continue to record until their involvement in the event ceases and they leave the scene.

6.4.3 EXCEPTIONS TO RECORDING: While it is the intent of this policy to require the BWC recording of any incident, interaction, investigation or enforcement contact not be interrupted prior to its conclusion and the officer clears the scene, or has completed the transport of a detainee, the Department recognizes that there will be times when private conversation prior to the conclusion of the incident may be necessary. An example of such instances when private conversation may be necessary is during strategy discussions with a supervisor or other officer. Prior to such discussion Officers may activate the Mute function on the BWC. Prior to activating the Mute function on the BWC the officer is to indicate the reason for muting the video. Officers shall not activate the Mute function while actively engaged or interacting with a member of the public, suspect or detainee. Officers shall not deactivate the recording unless specifically directed to do so by a supervisor. In such instances the officer is to indicate the supervisor's name who authorized deactivating the recording prior to doing so.

6.4.3.1 Supervisors may authorize an officer to deactivate BWCs during non-enforcement activities such as:

(CALEA 41.3.8 b)

c) Officers shall make a verbal notation on the recording anytime they are directed by a supervisor to stop a recording. The verbal notation must include the reason why the officer is stopping the recording and the name of the supervisor who authorized the halting of the recording. Officers shall note on their worksheet the number of videos associated with each case due to the stops and restarts during a call. (e.g., Officer is directed by a supervisor to stop the BWC and restarts the BWC prior to clearing the call. In this particular circumstance the officer will generate two videos on the one call, therefore, the worksheet entry for the call shall reflect "2 BWC Videos".)

During the course of the investigation, an additional allegation of **Improper Procedure** by Officer Jeremy Klurman was discovered by the Internal Affairs Section and **Sustained**.

BASIS:

1. A review of Officer Klurman's BWC footage showed Officer Klurman sitting inside his marked police vehicle smoking, while Mr. Julien-Riou sat in the backseat under arrest.
2. Officer Jeremy Klurman acknowledged in his sworn audio recorded Garrity statement he was smoking inside his marked police vehicle from an e-cigarette device that contains nicotine, while Mr. Julien-Riou was in the backseat.

Therefore, Officer Jeremy Klurman is found to be in violation of the following **City of Miami Police Departmental Orders**:

Departmental Order 1, Chapter 11:

11.6 GENERAL RULES OF CONDUCT:

11.6.1.2 Members and Civilian Employees to Know Rules and Regulations: It shall be the duty of all members and civilian employees of the Police Department to thoroughly familiarize themselves with such provisions of the Rules and Regulations that deal specifically and generally with the duties of their rank, grade, or position. This should occur within **ten days** from the date of issuance. Within thirty days of issuance, every member and every civilian employee shall familiarize himself or herself with all the provisions of the Rules and Regulations. Failure on the part of any member or civilian employee to acquaint himself/herself with the provisions of the Rules and Regulations, as hereby directed, shall be considered negligence of duty and subject to disciplinary action.

11.6.17 Disciplinary Action - General Offenses: A member or civilian employee of the Department found guilty of violating a rule, regulation, provision of a general or special order, or any of the offenses below, or upon conviction in a court having criminal jurisdiction, shall be subject to reprimand, suspension, dismissal, or suffer other disciplinary action as the Chief of Police may impose.

11.6.17.19 Smoking in violation of law, or Rules and Regulations.

11.6.48 Smoking, Chewing Gum, Tobacco, Etc.:

Major Jose L. Fernandez
Commander
Internal Affairs Section

I.A. Case No. 19-044

11.6.48.1 On Duty: Smoking, at any time, shall not be indulged in by any member or civilian employee under conditions which would be detrimental to good conduct, courtesy, or efficient procedure.

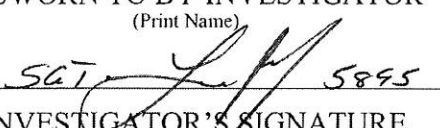
11.6.48.2 Uniform Members: Members of the Department in uniform shall not smoke, chew tobacco, gum, or snuff when visible to the public; nor shall they do these during roll call, line up, court attendance, or during any formation or official function. They shall not leave any post or assignment for the sole purpose of smoking, chewing tobacco, gum or snuff; but they shall, when permitted, do so in such a manner as to be inconspicuous.


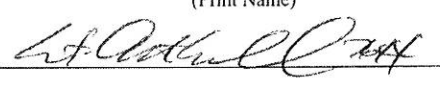
NOTIFICATION:

The complainant will be notified via Certified Mail.

INVESTIGATIVE VERIFICATION STATEMENT:

I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in Sections 112.532 and 112.533 of the Florida State Statutes.

Sgt. Lorena Rodriguez #5895
SWORN TO BY INVESTIGATOR
(Print Name)

INVESTIGATOR'S SIGNATURE


WITNESSED BY
(Print Name)

SIGNATURE OF WITNESS